

**BEFORE
THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA**

**DOCKET NO. 2020-264-E
DOCKET NO. 2020-265-E**

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| In the Matter of: |) | JOINT RESPONSE OF SOUTH |
| |) | CAROLINA COASTAL |
| |) | CONSERVATION LEAGUE, |
| |) | UPSTATE FOREVER, |
| |) | SOUTHERN ALLIANCE FOR |
| Duke Energy Carolinas, LLC's and Duke |) | CLEAN ENERGY, VOTE |
| Energy Progress, LLC's Establishment of |) | SOLAR, NORTH CAROLINA |
| Solar Choice Metering Tariffs Pursuant to |) | SUSTAINABLE ENERGY |
| S.C. Code Ann. Section 58-40-20 |) | ASSOCIATION, AND SOLAR |
| |) | ENERGY INDUSTRIES |
| |) | ASSOCIATION TO THE |
| |) | OFFICE OF REGULATORY |
| |) | STAFF'S PETITION FOR |
| |) | REHEARING AND/OR |
| |) | RECONSIDERATION |

The South Carolina Coastal Conservation League, Upstate Forever, Southern Alliance for Clean Energy, Vote Solar, North Carolina Sustainable Energy Association, and Solar Energy Industries Association (“Joint Parties”) join Duke Energy Carolinas, LLC and Duke Energy Progress, LLC (collectively the “Companies”) in opposition to the Office of Regulatory Staff’s *Petition for Rehearing and/or Reconsideration* (“Petition”) of Commission Order No. 2021-390 filed June 9, 2021.¹ For the reasons set out below, and for the reasons put forward in the Companies’ response to ORS’s Petition, the Joint Parties request that the Commission reject ORS’s request that the Commission modify

¹ This Commission Order approved the solar choice metering tariffs for Duke Energy Carolinas, LLC and Duke Energy Progress, LLC (collectively the “Companies”) that were previously agreed to in a settlement and stipulation between the Joint Parties and the Companies.

Order 2021-390 to require additional annual reporting requirements on the Companies that are not required by Act 62.

Commission regulations require that “[a] Petition for Rehearing or Reconsideration shall set forth clearly and concisely: (a) The factual and legal issues forming the basis for the petition; (b) The alleged error or errors in the Commission order; (c) The statutory provision or other authority upon which the petition is based.” S.C. Code Ann. Regs. 103-825(4). However, in support of its Petition, ORS has cited no factual or legal errors in the Commission’s Order that warrant reconsideration or rehearing. Nor has ORS presented any legal argument or factual error that would support the Commission’s grant of ORS’s petition.

First, ORS’s statement that its recommendation for “cost shift” reporting is unopposed by any party is incorrect. ORS did not consult with counsel for any of the Joint Parties before it filed its Petition to determine whether any party opposes its recommendation. Had they done so, the Joint Parties would have made their opposition to ORS’s proposal known.

Furthermore, ORS has no reason to presume that no party opposes its recommendation given the way in which ORS presented it to the Commission. ORS did not raise this particular recommendation in its direct pre-filed testimony. Instead, it made this request for the first time in the surrebuttal testimony of Witness Robert Lawyer. *See* Lawyer Surrebuttal at 6-7. No party would have had an opportunity to address this new recommendation in pre-filed testimony. It is the understanding of the Joint Parties that ORS did not ask any other parties’ witnesses whether they opposed or supported the recommendation made by Witness Lawyer during the merits hearing. Neither the non-

ORS witnesses nor counsel for the Joint Parties had an obligation to address Witness Lawyer's recommendation during the hearing. Moreover, the Joint Parties had no reason to confront Witness Lawyer's request because the evidence presented by the Companies and Joint Parties demonstrated that no material cost shift would exist as a result of the stipulated solar choice metering tariffs. It is not reasonable for ORS to infer that its recommendation is unopposed under these circumstances.

Second, ORS's recommendation for additional reporting on "cost-shift" is not required by law. By the same token, the Commission did not err by not issuing findings on ORS's request. The net metering provisions of the South Carolina Code of Laws, as amended by the Energy Freedom Act, do not include an annual "cost-shift" reporting requirement. The absence of any such reporting requirement is particularly noteworthy in light of the Energy Freedom Act's explicit reporting directive, requiring that "value of energy produced by customer-generators [] be updated annually and the methodology revisited every five years." S.C. Code Ann. § 58-40-20(E). The Commission is obligated only to fulfill the duties put to it by the statute as it concerns adopting a solar choice metering policy.

Third, ORS's recommendation for tracking "cost shift" is inconsistent with law and the recent directive of this Commission in Docket No. 2019-182-E. ORS recommends that the Commission require "tracking and reporting" in the "same manner as the Companies currently perform for the previous NEM tariffs," Petition at 2, but the Energy Freedom Act improved upon the determination of the value of distributed energy resources by requiring additional analyses. Consistent with the requirements set out in the EFA, the Commission has issued a directive requiring that the costs and benefits of the

net metering program be evaluated through a full range of tools including marginal and embedded cost of service evaluations and weighing a full suite of benefits and costs—the tools by which to determine whether there is a cost shift. In this light, ORS’s recommendation would put an unnecessary reporting burden on the Companies and produce an incomplete and misleading picture of potential “cost shift” as required by South Carolina law.

Lastly, the Joint Parties share the Companies’ concern that ORS’s request for reporting on “associated incentives” refers to Companies’ proposed energy-efficiency incentive as proposed in Docket Nos. 2021-144-E and 2021-143-E. *See* Petition at 2. Granting ORS’s request would conflate questions relating to potential “cost-shift” with the separate and unrelated issue of cost-effectiveness of energy-efficiency and demand-side management incentives. Reporting on EE/DSM programs should continue to occur through the well-established Commission procedures for the annual EE/DSM rider dockets.

For these reasons, and for all of the reasons put forward in the Companies’ response, the Joint Parties respectfully request that the Commission deny ORS’s Petition.

Respectfully submitted on this 17th day of June, 2021.

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CERTIFICATE OF SERVICE

I certify that the following persons have been served with one (1) copy of the Joint Response to the Office of Regulatory Staff's Petition for Rehearing and/or Reconsideration by electronic mail or U.S. First Class Mail at the addresses set forth below:

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This the 17th day of June, 2021.

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